

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARK MARTELL, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

X CORP.,

Defendant.

Case No. 1:23-cv-5449

District Judge Rebecca R. Pallmeyer

Magistrate Judge Beth W. Jantz

**DEFENDANT X CORP.'S MOTION TO DISMISS
COMPLAINT WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), and for the reasons set forth in the accompanying Memorandum of Law, Defendant X Corp. ("X") respectfully moves to dismiss with prejudice the Complaint of Plaintiff Mark Martell for failure to state a claim upon which relief can be granted. In the alternative, and also pursuant to Federal Rule of Civil Procedure 12(b)(6), X respectfully moves to dismiss with prejudice Plaintiff's Section 15(d) claim and his claim for enhanced statutory damages under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* ("BIPA"). In support of this Motion to Dismiss, X concurrently submits a Memorandum of Law and Exhibit, which set forth the grounds for X's Motion to Dismiss.

WHEREFORE, for all the reasons set forth in its accompanying Memorandum of Law, X respectfully requests that the Court grant its Motion to Dismiss and enter an Order dismissing the Complaint in its entirety and with prejudice. In the alternative, X respectfully requests that the Court dismiss with prejudice Plaintiff's Section 15(d) claim and his claim for enhanced statutory damages.

Date: September 25, 2023

Respectfully submitted,

/s/ Robert C. Collins III

Robert C. Collins III, one of the Attorneys for
Defendant X Corp.

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CERTIFICATE OF SERVICE

I, Robert C. Collins III, hereby certify that on September 25, 2023, I caused a copy of the foregoing to be filed using the Court's CM/ECF system, which provides service to all counsel of record.

/s/ Robert C. Collins III

Robert C. Collins III, One of the Attorneys for
Defendant X Corp.

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